

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

EXPRESS CARD SYSTEMS, LLC,

Plaintiff,

v.

SHUTTERFLY, INC., et al.

Defendants.

Case No. 6:10 – cv- 00514

PATENT CASE

JURY TRIAL DEMANDED

**PLAINTIFF EXPRESS CARD SYSTEMS, LLC’S ANSWER TO DEFENDANT
SHUTTERFLY, INC.’S AFFIRMATIVE DEFENSES AND COUNTERCLAIMS**

Plaintiff Express Card Systems, LLC (“Plaintiff”) files this Answer to Defendant Shutterfly, Inc.’s (“Defendant”) Affirmative Defenses and Counterclaims. Any allegation or defense not expressly admitted herein is denied. Plaintiff denies all of Defendant’s affirmative defenses.

COUNTERCLAIMS
(Declaratory Judgment as to the ‘590 Patent)

40. Plaintiff incorporates the allegations in its Complaint as though fully set forth herein.¹

41. Admitted

42. Plaintiff admits that it is a limited liability company organized and existing under the laws of the State of Texas, with its principal place of business in Frisco, Texas.

43. Plaintiff incorporates the allegations in its Complaint as though fully set forth herein. Plaintiff admits that there is an actual and justiciable controversy between Defendant and

¹ For purposes of continuity, Plaintiff’s answers track the numbers used by Defendant in it’s counterclaims.

Plaintiff with respect to the Asserted Patent. Plaintiff denies the remaining allegations in paragraph 43.

44. Denied.

45. Plaintiff admits that the Court has subject matter jurisdiction over Defendant's purported counterclaims. Plaintiff denies the remaining allegations in paragraph 45.

46. Admitted.

COUNT ONE
(Declaratory Judgment of Non-Infringement of the '590 Patent)

47. Plaintiff incorporates paragraphs 40-46 as though fully set forth herein.

48. Denied.

49. Denied.

COUNT TWO
(Declaratory Judgment of Invalidity of the '590 Patent)

50. Plaintiff incorporates paragraphs 40-48 as though fully set forth herein.

51. Denied.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the relief set forth in its Complaint and that Defendant's Counterclaims, and all relief requested by Defendant, be denied.

JURY DEMAND

Plaintiff also requests a trial by jury as alleged in Plaintiff's Complaint.

DATED: January 7, 2011

Respectfully submitted,

THE SIMON LAW FIRM, P.C.

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on all counsel of record via the court's *CM/ECF* system on January 7, 2011.

/s/ Timothy E. Grochocinski
Timothy E. Grochocinski